

NONPROFIT AND UNINCORPORATED ORGANIZATIONS COMMITTEE

Legislative Update as of July 11, 2008

by Cherie Evans

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AB 624 (Amended 5/07/08)

This bill would require a private, corporate, or public operating foundation with assets over \$250,000,000 to collect specified ethnic, gender, and sexual orientation data pertaining to its governance and grantmaking. This information includes: the racial and gender composition of its board of directors; the racial and gender composition of its staff; the number and percentage of contracts awarded to businesses owned by African-Americans, Asian-Americans, Pacific Islanders, Caucasians, Latinos, Native Americans, and Alaskan Natives; the number of grants and grant dollars awarded to organizations specifically serving African-Americans, Asian-Americans, Pacific Islanders, Caucasians, Latinos, Native Americans, Alaskan Natives, gay, lesbian, bisexual, transgender, and other underrepresented communities; the number of grants and grant dollars awarded to organizations where 50% or more of the board are ethnic minorities; the number of grants and grant dollars awarded to organizations where 50% or more of the full-time equivalent staff are ethnic minorities; and the number of grants and grant dollars awarded to predominantly low-income communities. A foundation would have to post this information on its website and include this information in its annual report. This bill would add Corporations Code Section 5081 and Probate Code Section 16065.

This bill was amended to limit its application to foundations incorporated in California. Information regarding the number of grants and grant dollars to organizations serving disabled communities is now requested.

The Committee submitted a Statement of Position opposing this bill.

Status: Referred to Senate Committee on Business, Professions and Economic Development. Hearing canceled on 6/23/08 at request of author. The bill is dead due to a compromise between the author and several large foundations. For more information on the foundations' pledge see <http://democrats.assembly.ca.gov/members/a23/press/20080624AD23PR01.htm>.

AB 1883 (Amended 6/17/08)

The Department of Forestry and Fire Protection is required to use inmates and wards assigned to conservation camps for fire prevention, fire control, and other work of the Department. Under Public Resources Code Section 4953, the Department is authorized to enter into contracts and cooperative agreements with public agencies for the performance of other conservation projects. This bill would expand the Department's authority to include entering into contracts and cooperative agreements with qualified nonprofit organizations. A nonprofit organization is defined as any California corporation exempt from tax under IRC Section 501(c)(3), 501(c)(4), or (c)(5). The bill was recently amended to require that the nonprofit has a demonstrated ability to plan, implement, and complete a conservation project.

Status: In Assembly. Concurrence in Senate amendments pending. May be considered on or after July 12.

AB 1964 (Amended 3/28/08)

The Alcoholic Beverage Control Act authorizes the issuance of a special temporary on-sale and off-sale license to a nonprofit corporation, however, the license may be issued only once in a calendar year. This bill would provide that a special temporary on-sale and off-sale license may be issued only three times in a calendar year. This bill amends Business and Professions Code Sections 24045.4 and 24045.6 and adds Section 25607.5. Section 25607.5 would allow a nonprofit that has not been issued a license authorizing the possession and sale of alcoholic beverages to store wine donated to the nonprofit to be sold at a later event if the nonprofit has submitted a license application.

Status: Chaptered by Secretary of State on July 8, 2008.

AB 2054 (Amended 4/22/08)

This bill would exempt from sales and use tax the sale of tangible personal property to, or the use of tangible personal property by, a nonprofit organization exempt under 23701d that recruits blood donors and that is a member of an organization promoting blood banking services. It would add Revenue and Taxation Code Section 6364.6.

Status: Failed deadline. Assembly dead.

SB 1284 (Amended 7/01/08)

This bill would amend Revenue and Taxation Code Section 214(g) to expand the criteria for the partial welfare exemption for rental housing to include property that was previously purchased and owned by the Department of Transportation and that is now solely owned by a Section 501(c)(3) organization. It was amended on June 9 to add Section 214.16, which provides for cancellation of any outstanding tax levied between January 1, 2002 and January 1, 2009 if the criteria of the new Section 214(g)(1)(D) are met, along with three other conditions. Section 214(g)(1)(D) was amended on July 1 to state that it does not apply to property owned by a limited partnership in which the managing partner is an eligible nonprofit corporation.

Status: Re-referred to Assembly Appropriations Committee.

SB 1329 (Amended 6/23/08)

This bill would enact the Uniform Prudent Management of Institutional Funds Act ("UPMIFA"), which would revise the provisions contained in the Uniform Management of Institutional Funds Act ("UMIFA"). It would change the reference in Corporations Code Section 5240 to a new Probate Code Section 18501 *et seq.* This bill would also amend Corporations Code Section 6518

to authorize a court, in an action brought by and at the request of the Attorney General, to make an order declaring that a nonprofit public benefit corporation is wound up and dissolved without meeting certain requirements (including the requirement to file a final settlement of accounts and a final franchise tax return), upon a finding by the court that it is impossible or impracticable to meet some or all of those requirements. Under this bill, historic dollar value is eliminated; however, appropriation for expenditure in any year of an amount greater than 7 percent of the fair market value of an endowment fund creates a rebuttable presumption of imprudence. There are exceptions for expenditures permitted under law or by gift instrument, private and public postsecondary educational institutions, and campus foundations. The bill also provides that the institution is not liable for the decisions or actions of an external agent to whom the management and investment of an institutional fund was delegated if the institution satisfies certain prerequisites. This part was amended on June 19 to add “except to the extent a trustee would be liable for those actions or decisions under Sections 16052 and 16401.”

Status: Assembly consent calendar.

Please see <http://www.calbar.ca.gov/calbar/legislation/State%20Bar%20Bill%20Tracking-Sections.html> for more information on these bills and other pending legislation.